

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

UNITED STATES OF AMERICA

CRIMINAL NO. 5:18-00084-02

VS.

KIRBYJON H. CALDWELL

CHIEF JUDGE HICKS  
MAGISTRATE JUDGE HORNSBY

**MOTION TO CLARIFY**

Comes now the United States, by and through the undersigned Assistant United States Attorneys, who respectfully move this Court for an order clarifying that Standing Order 1.86 does not prevent the United States from complying with its discovery and disclosure obligations. In support, the United States would respectfully show:

1. Standing Order 1.86 requires a plea addendum as a part of every plea package. The order further provides that each such addendum “shall be entered by the clerk of court as a separate sealed entry and any reference to it or its contents shall not be recited in the record during the course of a Rule 11 colloquy.”

2. The United States has a constitutional obligation to produce exculpatory and impeaching evidence. *See, e.g., Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972).

3. Regardless of the contents of the plea addendum,<sup>1</sup> in a multi-defendant case, the government will almost always have an obligation to disclose the addendum to counsel for the remaining defendants, either to reveal the terms of cooperation or to assure counsel that there was no cooperation requirement. It cannot comply with this obligation without an order from this Court because that addendum is sealed.

Wherefore, the United States respectfully urges this Court to issue an order clarifying that nothing in Standing Order 1.86 shall be construed to prevent it from complying with its discovery and disclosure obligations.

Respectfully submitted this 24th day of September, 2019.

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<sup>1</sup> This filing should not be construed in any way to reflect the content of the Gregory A. Smith plea addendum.